

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF VENTURA
VENTURA**

MINUTE ORDER

DATE: 01/26/2015

TIME: 11:34:00 AM

DEPT: 20

JUDICIAL OFFICER PRESIDING: Tari Cody

CLERK: Christine Schaffels

REPORTER/ERM:

CASE NO: **56-2014-00458073-CU-AS-VTA**

CASE TITLE: **Robert Denyer vs AB Electrolux**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Asbestos

EVENT TYPE: Ruling on Submitted Matter

APPEARANCES

The Court, having previously taken the Motion to Strike Portions of Plaintiff's Complaint (1/5/15) under submission, now rules as follows:

Defendant Rheem Manufacturing Company contends the allegations supporting the claim for punitive damages are insufficiently specific. Defendant also contends Plaintiffs are required to allege that Defendant's officers, directors, principals or managing agents acted oppressively, maliciously, or fraudulently. Defendants' motion seeks to strike ¶17 and ¶18 in the negligence cause of action and ¶30 in the strict products liability cause of action as well as the punitive damages sought in the prayer.

Defendant is correct that punitive damages cannot be sought for the first cause of action for negligence and accordingly, ¶17 and ¶18 are stricken (although these paragraphs remain incorporated by reference into later causes of action).

With respect to the motion to strike ¶30 in the second cause of action for strict liability, paragraph 30 must be read in context. (*Perkins v. Superior Court* (1981) 117 Cal. App. 3d 1, 6.). In the preceding paragraphs of the second cause of action Plaintiffs allege Defendants' (including Rheem) conduct with respect to the asbestos and asbestos-containing products (there is a long list of the "conduct" at ¶23) was done "with conscious disregard for the safety" of persons exposed to the products, that Defendants knew since at least 1930 there was a substantial risk of injury and death resulting from exposure to those products, Defendants knew persons who would be exposed to those products would not be aware of the danger, and that defendants made no effort to warn or protect any person who would be exposed to the products. Instead, Defendants failed to reveal information regarding the risk of exposure to the products leading people to believe the products were safe. Defendants conduct was motivated by financial interests and thereby consciously disregarded the safety of persons who would be exposed. (See, ¶¶23, 24, 25, 26.)

Defendant cites *Romo v. Ford Motor Co.* (2002) 99 Cal. App. 4th 1115, 1141, for the proposition that Plaintiffs must plead that its officers, directors, principals or managing agents acted oppressively, maliciously, or fraudulently. But *Romo* is an appeal from a jury verdict where the defendant/appellant argued that the plaintiffs were required to present evidence that "*at least one particular Ford employee, officer, director or managing agent* had the requisite malicious state of mind in 1978." (*Id.* at 1139 (emphasis in original).) The court disagreed: "When the entire organization is involved in the acts that constitute malice, there is no danger a blameless corporation will be punished for bad acts over which it had no control, the primary goal of the 'managing agent' requirement." (*Id.* at 1140.) *Romo* is not a pleading case. Plaintiffs are not required to allege the names of any particular employee who might have engaged in acts supporting their claim for punitive damages.

Defendant also argues the facts alleged are too conclusory to support a claim for punitive damages. That might be true if the only facts alleged were those contained in ¶30, but they are not. The allegations in the preceding paragraphs, summarized above, are sufficient to support a claim for punitive damages. (See e.g., (*Magallanes v. Superior Court* (1985) 167 Cal. App. 3d 878, 883 & fn. 1.)

Accordingly, the motion to strike paragraph 30 and the claim for punitive damages in the prayer is denied.

The Clerk is directed to give notice.